IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.852 OF 2006
IN
CRIMINAL APPEAL NO.739 OF 2006

Faiyaz @ Baba Arif Zariwala ...Applicant

Vs.

The State of Maharashtra ...Respondent

Shri Kedar Millwala i/by Shri Girish Kulkarni and Kapil Dave for the Applicant.

Shri U.V.Nikam, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 15, 2006.

P.C.:

1. The Applicant-accused has been convicted for offence punishable under section 376 of the Indian Penal Code. He has been sentenced to undergo rigorous imprisonment for three years and to pay fine of Rs.10,000/-. In default he has been ordered to undergo simple imprisonment for one year. The Applicant was on bail during the pendency of the trial.

2. The learned Advocate appearing for the Applicant has taken me through the notes of evidence and the findings recorded by the Trial Court. He submitted that there was a gross delay in filing F.I.R. which raises serious doubt about truthfulness of the

case of the prosecutrix. The learned A.P.P. submitted that looking to the nature of the offence, no case is made out for enlarging the Applicant on bail.

3. According to the case of the prosecutrix she was working as a maid servant in the house of the Applicant. The allegation of commission of offence under section 376 of the Indian Penal Code is for the period between January 1991 to January 1992. The F.I.R. was registered on 08th August, 1992. At the time of recording the F.I.R. the prosecutrix disclosed her age as eighteen years. In this case, complaint has been filed after the prosecutrix delivered a child. Though F.I.R. was lodged in the year 1992 the trial concluded on 15th June, 2006. As stated earlier, throughout the trial the Applicant was on bail. Nothing is placed on record to show that the Applicant has misused the liberty granted to him. The substantive sentence is only of three years. Considering large pendency of criminal Appeals in this court, it is unlikely that the Appeal will be heard finally before the period of sentence is over. Considering all the peculiar facts of the case, the Applicant deserves to be enlarged on bail.

4. Hence, I pass the following order:

. The Applicant shall be enlarged on the same bail on which he was enlarged during the pendency of the trial subject to filing fresh bail bonds. Bail is granted subject to condition that the Applicant will report to Gamdevi Police Station on every first and third Saturday of every calendar month till the disposal of the Appeal.

JUDGE